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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,223	11/26/2003	Jean-Francois Savaria	86267-39	5690
7590 Stephan P. Georgiev SMART & BIGGAR Suite 3400 1000 de la Gauchetiere Street West Montreal, QC H3B 4W5 CANADA			EXAMINER CREPEAU, JONATHAN	
			ART UNIT	PAPER NUMBER
			1745	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/02/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/721,223

Applicant(s)

SAVARIA ET AL.

Examiner

Jonathan S. Crepeau

Art Unit

1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 12/27/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I in the reply filed on February 13, 2007 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 14, 15, 18, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 98/44574. The reference teaches a casing (15) for a battery comprising a structural shell (19) and an inner lining (16, 17, 18) which comprises a laminate of at least two synthetic materials. As disclosed in the abstract, the inner lining is comprised of layers having oxygen and humidity barrier properties. The shell (19) may be made of polypropylene (see Example 1). Regarding claim 14, the top half of the structure shown in Figure 2 may be characterized as a cover, which is mounted on the shell. The cover is heat sealed to the shell (see page 2, line 25). Regarding claim 15, although the reference does not teach that the cover is affixed to the shell by

a welding operation, this is a process limitation that is not seen to distinguish the claimed product over the product disclosed by WO '574. The "heat sealed" product of WO '574 does not possess a structure different than that resulting from a welding operation as recited in claim 15, and as such, the claim is met by the reference. See MPEP 2113.

Thus, the instant claims are anticipated.

4. Claims 1-6, 18, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Greenbaum (U.S. Patent 5,022,555). The reference is directed to a container for holding a liquid. The container is capable of holding an energy storage device and therefore meets this limitation in the preamble of claim 1. The casing is formed from a multi-layer structure as best shown in Figs. 1-6. A carrier film (16) is wrapped around PVC piping (12) to form an inner liner (18) of the container (see col. 2, line 44 et seq.). A barrier film (20) is then formed on the outside of the carrier film and may also be considered to be part of the claimed lining. A further layer of carrier film (16) is then formed thus creating a shell (22). Regarding claim 6, the shell may be reinforced with piping (24) to create ribs on the outside thereof. The inner lining may comprise a laminate of two synthetic materials having moisture and humidity barrier properties (see col. 3, line 1). Regarding claim 4, the laminates may include metallized films (see col. 5, line 50). Regarding claims 5 and 7, the shell may comprise adhesive layers reinforced with glass frit additives (see col. 5, line 39). Regarding claim 18, the shell may comprise polyethylene (see col. 4, line 30) or epoxy (see col. 5, line 18).

Thus, the instant claims are anticipated.

5. Claims 1, 5, 7, 14, 16, 17, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Kelly (U.S. Patent 4,778,074). The reference teaches a casing for a battery comprising a structural shell (2, 4) and an inner lining (32) joined to the inner surface of the shell (see Fig. 2). A cover (6) is sealed to the top of the container, which cover contains electrical connectors (12, 14) for connecting to the battery inside the container. The shell and the cover may comprise a graphite/epoxy thermoset material (see col. 1, line 42). The liner comprises stainless steel (see col. 1, line 40) and is thus impervious to oxygen and humidity. The cover includes a reinforcement metallic portion (32) lined with the composite material (6).

Thus, the instant claims are anticipated.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greenbaum.

The reference is applied to claims 1-7, 18, and 19 for the reasons stated above. However, the reference does not expressly teach that the structural shell is made of a molded plastic material reinforced with a plurality of discrete metallic portions, as recited in claim 8.

However, the invention as a whole would have been obvious to one of ordinary skill in the art at the time the invention was made because the recitation of discrete metallic portions is not considered to patentably distinguish over the reference. As stated above, Greenbaum teaches that the layers of the lining and/or shell may comprise metallized films. Although the specific implementation and configuration of the metallized films is not disclosed by Greenbaum, it would be well within the skill of the art to use "discrete portions" as opposed to a continuous portion when constructing the container of Greenbaum. In general, it has been held that making elements separable is matter of design choice to one skilled in the art absent evidence to the contrary (MPEP 2144.04). Further, the specific configurations recited in claims 9-13 are not considered to distinguish over the reference. These claims recite a molded structure, an embedded structure, and a fastening structure comprised of perforations in the metal and mating projections in the plastic. Each of these structures would be obvious to a person of skill in the art, since the artisan would be sufficiently skilled to adhere the metal layer to other layers by any means known, including molding, embedding, and fastening with perforations. As such, none of the claimed structures is seen to patentably distinguish over Greenbaum.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Crepeau whose telephone number is (571) 272-1299. The examiner can normally be reached Monday-Friday from 9:30 AM - 6:00 PM EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan, can be reached at (571) 272-1292. The phone number for the organization where this application or proceeding is assigned is (571) 272-1700. Documents may be faxed to the central fax server at (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jonathan Crepeau
Primary Examiner
Art Unit 1745
February 28, 2007